IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.724 OF 1988

Shri Jaganath Shankar Shinde)
since deceased through his legal)
heirs and representatives:-)
1A. Smt. Sunanda Jaganath Shinde)
1B.Shri Rajendra Jaganath Shidne))
1C. Shree Sanjay Jaganath Shinde)
All residing at 34, Laxmi Nagar)
behind Uplekar Temple, Taluka)
Phaltan, Dist. Satara.)
1D.Sau.Shubhangi Vijay Jadhav,)
residing at Kamla Nehru)
Hospital, Mangalwar Peth,)
Pune-2.)
1E.Sau.Meena Sanjay Bhame,)
residing at 187, Shukrawar)
Peth, Shinde aali, Pune-2.)..PETITIONERS

Versus

1.Shri Vasant Krishna Shinde,)
resident of 1322, Raviwar Peth)
Phaltan, Taluka Phaltan,)
At present resident of)
Batrewada, Pune, Dist.Pune.)
2.Maharashtra Revenue Tribunal,)
Pune.)..RESPONDENTS

Mr.R.R. Bhosale, for the Petitioners
Mr. P.B. Shah, for the Respondent No.1.

CORAM: F.I. REBELLO J.
DATE : 10th January, 2005

ORAL JUDGMENT:

. The petitioners claim tenancy of land situate at Dhuledeo bearing Survey No.109/4 (now Gat No.58/4) admeasuring 1 Hector 35 Ares. On 9th April, 1960 an enquiry under Section 32G of the Bombay Tenancy & Agricultural Lands Act was commenced. As both the tenant and the landlord were absent by an order dated 6th July, 1963 the A.L.T. Phaltan directed that the land be taken possession of and be shown in the

Collector's pool as per Section 32P of the B.T. & A.L. Act. The petitioners and Respondent No.1 preferred Appeals which were dismissed on 20th September, 1963 and 18th September, 1964 respectively. The land was attached and shown in the Collector's pool. Thereafter the land was leased to the petitioner under Section 18-D of the B.T. & A.L. Act.

2. It appears that once again the proceedings were initiated under Section 32G in the year 1982. The A.L.T. after recording the statement of the petitioner and respondent No.1 fixed the purchase price. The petitioners paid the price and certificate of purchase was issued to him on 5th January, 1983. The Respondent No.1 preferred an Appeal being Appeal NO.5 of 1093 before the S.D.O. Phaltan. That came to be dismissed by order dated 26th March, 1985. While disposing of the Appeal the Appellate Authority further directed that the earlier order dated 6th July, 1963 be implemented. The petitioners aggrieved by the said order preferred Revision Application which came to be dismissed by order dated 27th November, 1987. The petition has been preferred against the said order.

3. After hearing Counsel for the parties in my opinion it will not be possible to interfere with the impugned order even assuming that the Appellate Authority while disposing of the Appeal preferred by the Respondent NO.1 herein could not have made or issued directions as issued by him. That, however, could have been corrected by the Revisional Authority in the

exercise of suo motto powers. This Court also in exercise of its extra ordinary jurisdiction under Article 227 of the Constitution and examine the record and issue proper directions.

4. In the instant case it would be clear that pursuant to the procedure under Section 32P the land had been taken from the tenant i.e. the petitioner who was thereafter given the right of cultivation pursuant to procedure Section 18D of the Act. If that be the case the question of commencing the proceedings once again under Section 32G of the B.T. & A.L. Act was totally without jurisdiction. For the aforesaid reasons I find no cause for interference. Petition dismissed.

Rule discharged. No order as to costs.

(F.I.REBELLO, J.)